



Mr. McArthur

Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Mennen Medical, Inc.

File: B-246766

Date: December 11, 1991

Charlotte Rothenberg, Esq., McGuire, Woods, Battle & Boothe, for the protester.
C. Douglas McArthur, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where protester does not allege that agency improperly concluded that its offered product did not meet a salient characteristic of the specifications, that color screen be operator selectable, protest alleging that requirement for operator selectable color screen exceeds agency's minimum needs is dismissed as untimely where filed after time set for receipt of quotations.

DECISION

Mennen Medical, Inc., protests the rejection of its offer submitted under request for quotations (RFQ) No. M6-Q17-91, issued by the Department of Veterans Affairs. The protester contends that the agency improperly found the protester's quote unacceptable.

We dismiss the protest.

The agency issued RFQ No. M6-Q17-91 on August 26, 1991, for physiological monitoring stations, "Marquette Electronics, Inc. Items or Equal" for VA medical centers in Baltimore, Maryland and Dayton, Ohio. The agency rejected the protester's quotation, which was timely submitted on September 11, 1991, as technically unacceptable.


The protester argues generally that the agency's determination that its product was noncompliant with salient characteristics lacks a reasonable basis. Regarding the agency's conclusion that its monitor's bedside color screen configuration was not operator selectable, however, the protester does not deny that its product fails to meet this requirement. Rather, the protester contends the requirement is unnecessary and overstates the agency's minimum needs. The protester is basically alleging a solicitation impropriety that should have been apparent prior to the time

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set for receipt of quotations, i.e., that this RFQ requirement does not represent the agency's minimum needs and unduly restricts competition. Its protest, filed with the agency on October 4, more than 3 weeks after the time set for receipt of quotes, is therefore untimely under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1991), as amended by 56 Fed. Reg. 3759 (1991), which require that such protests concerning an impropriety in the solicitation including an RFQ, must be filed prior to the time set for receipt of quotations. See East West Research, Inc.--Recon., B-236994.2, Nov. 22, 1989, 89-2 CPD ¶ 496.

Since Mennen has failed to establish that its objection to the operator selectable color screen requirement is timely filed, and since the protester was therefore properly found unacceptable for the failure to meet this requirement, the remainder of the protester's allegations of improper evaluation are academic.

The protest is dismissed.


Michael R. Golden
Assistant General Counsel